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VIA EMAIL & MAIL

Lowell Finley
Deputy Secretary of State
Voting Systems Technology and Policy
Office of the Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814
lfinley@sos.ca.gov

Re: Proposed Recount Regulations

Dear Mr. Finley:

We write to object to the proposed recount regulations to the extent they seek to “elaborate” and broaden the scope of data and documents that are deemed relevant in all future recounts under Elections Code section 15630, regardless of the circumstances of the recount or the type of voting system involved. (See Prop. Cal. Code Regs., tit. 2, § 20813.)

The basis for section 20813 appears to be the trial court’s ruling in *Americans for Safe Access, et al. v. County of Alameda, et al.* (Alameda County Superior Court Case No. RG04-192053). That ruling, however, is currently on appeal to the Court of Appeal for the First Appellate District. The case has been fully briefed and oral argument is likely in April. As stated in the Appellants’ briefs, the interpretation of section 15630 advanced by the trial court, and now proposed by the Secretary of State, is wrong as a matter of law and ignores the purpose and scope of a voter-requested recount. The scope of section 15630 is therefore directly before the Court. For this reason, we request that the Secretary of State postpone implementing its proposed regulation until the Court has ruled.

Sincerely,



Thomas A. Willis

TAW:MEM
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